

AMENDED IN SENATE JUNE 3, 2015

AMENDED IN SENATE APRIL 20, 2015

**SENATE BILL**

**No. 334**

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**Introduced by Senator Leyva**  
*(Coauthors: Senators Leno and Pavley)*

February 23, 2015

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An act to amend Section 38086 of, to add Sections 32241.5, 32246, 32247, 32248, and 32249 to, and to add Article 13 (commencing with Section 49580) to Chapter 9 of Part 27 of Division 4 of Title 2 of, the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 334, as amended, Leyva. Pupil health: drinking water.

(1) Existing law requires a school district to provide access to free, fresh drinking water during meal times in school food service areas, unless the governing board of a school district adopts a resolution stating that it is unable to comply with this requirement and demonstrating the reasons why it is unable to comply due to fiscal constraints or health and safety concerns. Existing law requires the resolution to be publicly noticed on at least 2 consecutive meeting agendas and approved by at least a majority of the governing board of the school district.

This bill would delete the provision authorizing a school district to adopt a resolution stating that it is unable to provide access to free, fresh drinking water during meal times. The bill would instead specify that a school district shall provide access to free, fresh, and clean drinking water during meal times through the use of drinking water access points, as defined. ~~The bill also would require a school district to provide access to free, fresh, and clean drinking water throughout the schoolday, including, but not limited to, during recreation times, as specified.~~ By

imposing additional duties on school districts, this bill would impose a state-mandated local program.

This bill would require a school district that has drinking water sources with drinking water that does not meet the United States Environmental Protection Agency drinking water standards for lead or any other contaminant to close access to those drinking water sources, to provide alternative drinking water sources, as specified, and to notify specified persons if the school district is required to provide those alternative drinking water sources. By imposing additional duties on schools and school districts, this bill would impose a state-mandated local program.

(2) Under existing law, known as the Lead-Safe Schools Protection Act, the State Department of Public Health is required to perform various activities related to reducing the risk of exposure to lead hazards in public schools.

This bill would require the State Department of Education to work with the State Department of Public Health to develop guidelines and best practices to ensure that lead hazards are minimized in the course of school repair and maintenance and abatement procedures. The bill would prohibit drinking water that does not meet the United States Environmental Protection Agency drinking water standards for lead from being provided at a school ~~facility~~ *facility*, and would require a school district that has such drinking water to identify the most urgent mitigation needs and develop a protocol or plan for mitigation. The bill would require the State Department of Public Health to test drinking water sources at ~~all school sites~~ *a sample of school sites, as specified*, for lead in the drinking water ~~water~~; and would require ~~a school district to report information related to the data collected through this testing to be posted on the Internet Web sites of the State Department of Education and the State Department of Public Health.~~ The bill would require a *public* school that has lead-containing plumbing components to flush all drinking water sources at the beginning of each schoolday, *except* as provided. By imposing additional duties on *public* schools and school districts, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 32241.5 is added to the Education Code,  
2 to read:

3 32241.5. The department shall work with the State Department  
4 of Public Health to develop guidelines and best practices to ensure  
5 that lead hazards are minimized in the course of school repair and  
6 maintenance and abatement procedures. ~~The data sent by school~~  
7 ~~districts to the department~~ *gathered* pursuant to subdivision (b) of  
8 Section ~~33247~~ 32247 shall be considered in the development of  
9 the guidelines and best practices.

10 SEC. 2. Section 32246 is added to the Education Code, to read:

11 32246. Drinking water that does not meet the United States  
12 Environmental Protection Agency drinking water standards for  
13 lead shall not be provided at a school facility.

14 SEC. 3. Section 32247 is added to the Education Code, to read:

15 32247. (a) The State Department of Public Health shall test  
16 drinking water sources at ~~all~~ *a sample of* schoolsites for lead in  
17 the drinking water. *The sample shall include schools that are*  
18 *representative of the state by geographical region, size of*  
19 *enrollment, and areas identified pursuant to Section 39711 of the*  
20 *Health and Safety Code.*

21 (b) ~~A school district shall report~~ *The data collected by the State*  
22 *Department of Public Health shall include* drinking water lead  
23 testing information, including, but not limited to, dates of testing,  
24 number and type of drinking water sources tested, ~~test results, and~~  
25 ~~adopted protocols or plans for mitigation, to the State Department~~  
26 ~~of Public Health and the department.~~ *and test results.*

27 (c) The State Department of Public Health and the department  
28 shall do both of the following:

29 (1) Establish a process for receiving, recording, and making  
30 public the data received from ~~school districts.~~ *testing water at*  
31 *schoolsites.*

(2) Post the data ~~received from school districts~~ *collected during drinking water lead testing* on the departments' respective Internet Web sites.

(d) *The State Department of Public Health shall not test drinking water sources that meet either of the following conditions:*

(1) *Are located at schoolsites constructed after January 1, 2010.*

(2) *Have been tested by the State Department of Public Health or a certified professional employed or hired by a school district and meets the United States Environmental Protection Agency and state drinking water standards for lead.*

SEC. 4. Section 32248 is added to the Education Code, to read:

32248. (a) A school district that has drinking water sources with drinking water that does not meet the United States Environmental Protection Agency drinking water standards for lead shall work with the State Department of Public Health and the local department of public health to identify the most urgent mitigation needs and develop a protocol or plan for mitigation.

(b) The protocol or plan shall identify timelines and funding sources for mitigation.

(c) The protocol or plan shall be presented to and adopted by the governing board of the school district at a regularly scheduled public meeting within six months of the school district's receipt of the drinking water test results.

SEC. 5. Section 32249 is added to the Education Code, to read:

32249. A school that has lead-containing plumbing components shall flush all drinking water sources for a minimum of 30 seconds at the beginning of each schoolday, consistent with protocols recommended by the United States Environmental Protection Agency. *A school is not required to flush drinking water sources that have been shut off or have been certified as free of lead.*

SEC. 6. Section 38086 of the Education Code is amended to read:

38086. (a) A school district shall provide access to free, fresh, and clean drinking water during meal times in the food service areas of the schools under its jurisdiction, including, but not necessarily limited to, areas where reimbursable meals under the federal National School Lunch Program or the federal School Breakfast Program are served or consumed. A school district may comply with this section by, among other means, providing cups

1 and containers of water or soliciting or receiving donated bottled  
2 water.

3 (b) A school district shall comply with this section through the  
4 use of drinking water access points, as prescribed by Section 49580  
5 points.

6 (c) For purposes of this section, “drinking water access point”  
7 is defined as a station, plumbed or unplumbed, where pupils can  
8 access free, fresh, and clean drinking water. An unplumbed access  
9 point may include water bottles and portable water dispensers.

10 SEC. 7. Article 13 (commencing with Section 49580) is added  
11 to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education  
12 Code, to read:

13  
14 Article 13. Drinking Water  
15

16 49580. (a) A school district shall provide access to free, fresh,  
17 and clean drinking water throughout the schoolday, including, but  
18 not limited to, during both of the following:

19 (1) Meal times, as provided for in Section 38086.

20 (2) Recreation times, including, but not limited to, while pupils  
21 are engaged in physical activity, in the recreation areas of the  
22 schools under its jurisdiction. Recreation areas are any areas in  
23 which pupils participate in recreation, including, but not limited  
24 to, playgrounds, gymnasiums, cafeterias, and recreation centers.

25 (b) A school district shall comply with this section by providing  
26 one or more drinking water access points.

27 (c) For purposes of this section, “drinking water access point”  
28 is defined as a station, plumbed or unplumbed, where pupils can  
29 access free, fresh, and clean drinking water. An unplumbed access  
30 point may include water bottles and portable water dispensers.

31 49581.

32 49580. (a) A school district that has drinking water sources  
33 with drinking water that does not meet the United States  
34 Environmental Protection Agency drinking water standards for  
35 lead or any other contaminant shall close access to those drinking  
36 water sources immediately upon receipt of test results or  
37 notification from the public water system.

38 (b) (1) If, as a result of closing access to a drinking water source  
39 pursuant to subdivision (a), a schoolsite within a school district  
40 no longer has the minimum number of drinking fountains required

1 pursuant to Chapter 4 (commencing with Section 401.0) of the  
2 California Plumbing Code (Part 5 of Title 24 of the California  
3 Code of Regulations), the school district shall provide alternative  
4 drinking water sources at that schoolsite.

5 (2) An alternative drinking water source provided pursuant to  
6 this subdivision while the source of contamination is being  
7 mitigated may be from plumbed or unplumbed sources. Unplumbed  
8 sources may include, but are not limited to, portable water sources  
9 and bottled water.

10 (c) A school district shall notify parents, pupils, teachers, and  
11 other school personnel of drinking water test results, immediately  
12 upon receipt of those test results, if the school district is required  
13 to provide alternative drinking water sources.

14 SEC. 8. If the Commission on State Mandates determines that  
15 this act contains costs mandated by the state, reimbursement to  
16 local agencies and school districts for those costs shall be made  
17 pursuant to Part 7 (commencing with Section 17500) of Division  
18 4 of Title 2 of the Government Code.